

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES SIEGEL,

Plaintiff,

-against-

AMENDED ANSWER

07 Civ. 6025 (DC)

METRO-NORTH COMMUTER RAILROAD,

Defendant.

-----X

DEFENDANT DEMANDS A BIFURCATED TRIAL

Defendant, Metro-North Commuter Railroad (hereinafter“Metro-North”), by its attorney, Richard K. Bernard, General Counsel, as and for its Amended Answer to the Amended Complaint of the plaintiff, alleges as follows:

1. Admits the allegations contained in paragraph(s) FIRST and SECOND of the Amended Complaint.

FIRST CAUSE OF ACTION

2. In response to paragraph THIRD of the Amended Complaint, Defendant repeats and reasserts each and every response to paragraphs FIRST and SECOND of the Amended Complaint as if more fully set forth herein.

3. Admits the allegations contained in paragraph(s) FOURTH and FIFTH of the Amended Complaint.

4. Denies the allegations contained in paragraph(s) SIXTH, SEVENTH and EIGHTH of the Amended Complaint.

SECOND CAUSE OF ACTION

5. In response to paragraph NINTH of the Amended Complaint, Defendant repeats and reasserts each and every response to paragraphs FIRST through EIGHTH of the Amended Complaint as if more fully set forth herein.

6. Admits the allegations contained in paragraph(s) TENTH and ELEVENTH of the Amended Complaint.

7. Denies the allegations contained in paragraph(s) TWELFTH, THIRTEENTH and FOURTEENTH of the Amended Complaint.

AS AND FOR AFFIRMATIVE DEFENSES

8. As and for a first affirmative defense, or as a defense in mitigation of damages, the defendant claims that any injuries allegedly sustained by the plaintiff were caused, in whole or in part, by reason of the culpable conduct of the plaintiff.

9. As and for a second affirmative defense, Defendant alleges that Plaintiff's First Cause of Action is barred by the applicable statute of limitations.

WHEREFORE, Defendant demands judgment dismissing the Amended Complaint, together with costs and disbursements and such other and further relief as to this Court seems just and proper.

Dated: New York, New York
January 3, 2008

RICHARD K. BERNARD
GENERAL COUNSEL

By: _____
Jesse A. Raye (JAR-2009)
Attorneys for Defendant
347 Madison Avenue, 19th Floor
New York, New York 10017
(212) 340-2538

TO: Michael Flynn, Esq.
Law Office of Michael Flynn PLLC
Attorney for Plaintiff
1205 Franklin Avenue
Garden City, NY 11530
(516) 877-1234

STATE OF NEW YORK :
 : ss:
COUNTY OF NEW YORK:

Nellie Forreman-Ramos, being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside in Bronx County, New York.

On January 3, 2008, I served a true copy of the annexed AMENDED ANSWER, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: Michael Flynn, Esq.
Law Office of Michael Flynn PLLC
Attorney for Plaintiff
1205 Franklin Avenue
Garden City, NY 11530
(516) 877-1234

NELLIE FOREMAN-RAMOS

Sworn to before me this
___ day of January, 2008

NOTARY PUBLIC

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212-340-2538

**JESSE A. RAYE
JAR 2009**

19th Floor

Defendant